

Groundwater Withdrawal Permit or Groundwater Special Exception Holder Mitigation Plan Summary

Regulatory Requirement

9VAC25-610-110 D 3 g

3. The board shall issue a groundwater withdrawal permit when it is demonstrated, by a complete application and the board's technical evaluation, to the board's satisfaction that the maximum safe supply of groundwater will be preserved and protected for all other beneficial uses and that the applicant's proposed withdrawal will have no significant unmitigated impact on existing groundwater users or the groundwater resource. In order to assure that the applicant's proposed withdrawal complies with the above stated requirements, the demonstration shall include, but not be limited to, compliance with the following criteria:

g. The board's technical evaluation demonstrates that the area of impact of the proposed withdrawal will remain on property owned by the applicant or that there are no existing groundwater withdrawers within the area of impact of the proposed withdrawal.

In cases where the area of impact does not remain on the property owned by the applicant or existing groundwater withdrawers will be included in the area of impact, the applicant shall provide and implement a plan to mitigate all adverse impacts on existing groundwater users. Approvable mitigation plans shall, at a minimum, contain the following features and implementation of the mitigation plan shall be included as enforceable permit conditions:

- 1) The rebuttable presumption that water level declines that cause adverse impacts to existing wells within the area of impact are due to the proposed withdrawal;
- 2) A commitment by the applicant to mitigate undisputed adverse impacts due to the proposed withdrawal in a timely fashion;
- 3) A speedy, nonexclusive, low-cost process to fairly resolve disputed claims for mitigation between the applicant and any claimant; and
- 4) The requirement that the claimant provide documentation that he is the owner of the well; documentation that the well was constructed and operated prior to the initiation of the applicant's withdrawal; the depth of the well, the pump, and screens and any other construction information that the claimant possesses; the location of the well with enough specificity that it can be located in the field; the historic yield of the well, if available; historic water levels for the well, if available; and the reasons the claimant believes that the applicant's withdrawals have caused an adverse impact on the well.

Overview of Mitigation Plan Requirements Included in a Groundwater Withdrawal Permit or Special Exemption

The Mitigation Plan provides existing groundwater users a method to resolve claims that may arise due to the impact of facility withdrawals. This plan covers existing users and excludes impacts to wells constructed after the effective date of the permit or special exception.

- Within the Modeled Area of Impact, as shown in associated maps, water level declines that cause adverse impacts to existing groundwater users are presumed to be caused by the Groundwater Permit or Groundwater Special Exception Holder; however, they are able to rebut this presumption.
- Outside the Modeled Area of Impact, claims may be made by existing groundwater users; however, there is no presumption that the Groundwater Permit or Groundwater Special Exception Holder has caused the adverse impact.

Groundwater Withdrawal Permit or Groundwater Special Exception Holder Mitigation Plan Summary

Initiating a Mitigation Claim

The claimant must provide written notification of the claim to the Groundwater Permit or Groundwater Special Exception Holder.

The claim must include the following information:

- A deed or other available evidence that you are the owner of the well and the well was constructed and operated prior to the effective date of the permit;
- All available information related to well construction, water levels, historic yield, water quality and the exact location of the well sufficient to allow the Groundwater Permit or Groundwater Special Exception Holder to locate the well on your property; and
- The reasons you believe that the Groundwater Permit or Groundwater Special Exception Holder withdrawal has adversely affected your well.

If you are within the modeled area of impact and indicate that you are out of water, the Groundwater Permit or Groundwater Special Exception Holder will provide water for human consumptive needs within 72 hours through the claim review period.

Mitigation Claim Resolution

- The Groundwater Permit or Groundwater Special Exception Holder will review any claim within five business days.
 - If the Groundwater Permit or Groundwater Special Exception Holder accepts the claim, they will implement mitigation within 30 business days.
- If the claim is not accepted, the Groundwater Permit or Groundwater Special Exception Holder will notify you that the claim is denied or that they require additional documentation from you.
 - The Groundwater Permit or Groundwater Special Exception Holder will notify that they agree to mitigate adverse impacts or the claim is denied within 15 business days after getting the additional documentation.
 - If the claim is denied, you may then request the claim be evaluated by a three-member committee consisting of representatives selected by the Groundwater Permit or Groundwater Special Exception Holder, yourself and a mutually agreed upon representative. The mitigation plan provides direction on who is eligible to be a committee member and reimbursement.
 - Within 15 business days of receipt of requested documentation, the committee will evaluate the claim and reach a decision by majority vote. The committee will notify the claimant regarding its decision to deny or approve the claim. If the claim is approved, the Groundwater Permit or Groundwater Special Exception Holder will mitigate the adverse impacts within 30 business days of making the decision or as soon as practical. If the committee denies the claim, the Groundwater Permit or Groundwater Special Exception Holder may seek reimbursement as outlined in the mitigation plan.

The mitigation plan allows the Groundwater Permit or Groundwater Special Exception Holder to reserve the right to recover the cost of such emergency supply if the claim is denied by the Groundwater Permit or Groundwater Special Exception Holder, or found to be fraudulent or frivolous.